



22 CFR Part 22

[Public Notice: 11195]

RIN 1400-AF15

Schedule of Fees for Consular Services – Fee Change for Certain Border Crossing Cards

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State amends the Schedule of Fees for Consular Services (Schedule) for visa fees. More specifically, the rule amends the Border Crossing Card fee paid by a Mexican citizen under age 15 whose parent or guardian has or is applying for a border crossing card (the “reduced Border Crossing Card fee”). The Department is decreasing this fee in light of the expiration of the authority provided by the Emergency Afghan Allies Extension Act of 2014, which imposed a temporary \$1 surcharge on the fees for Machine Readable Visa (MRV) and Border Crossing Card (BCC) application processing, to be deposited into the general fund of the Treasury. This provision required the Department of State to start collecting this surcharge on January 1, 2015, and it expired five and a half years after the first date on which the surcharge was collected, on June 30, 2020. The Department must reduce the reduced Border Crossing Card fee by \$1, for a total fee of \$15, to continue to collect the legislatively required fee amount of \$13 and all remaining applicable surcharges.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Rob Schlicht, Management Analyst, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202-485-6681, telefax: 202-485-6826; e-mail: fees@state.gov.

SUPPLEMENTARY INFORMATION:

Background

This final rule makes changes to the Schedule of Fees for Consular Services of the Department of State's Bureau of Consular Affairs. The Department sets and collects its fees based on the concept of full cost recovery, but some fees are set by statute. The Department of State is adjusting the reduced Border Crossing Card fee in light of the expiration of the authority provided by the Emergency Afghan Allies Extension Act of 2014, section 2, Public Law 113-160 ("the Act"), which imposed a temporary \$1 surcharge on fees for MRV and BCC application processing.

What Is the Authority for This Action?

The Department of State derives the general authority to set fees based on the cost of the consular services it provides, and to charge those fees, from the general user charges statute, 31 U.S.C. 9701. *See, e.g.*, 31 U.S.C. 9701(b)(2)(A) ("The head of each agency . . . may prescribe regulations establishing the charge for a service or thing of value provided by the agency . . . based on . . . the costs to the government."). As implemented through Executive Order 10718 of June 27, 1957, 22 U.S.C. 4219 further authorizes the Department to establish fees to be charged for official services provided by U.S. embassies and consulates. Other authorities allow the Department to charge fees for consular services, but not to determine the amount of such fees, as the amount is statutorily determined.

The Department of State is required by law to collect a Border Crossing Card application processing fee for a Mexican citizen under age 15 whose parent or guardian has or is applying for a border crossing card. Pub. L. 105-277, Div. A, Sec. 101(b), 112 Stat. 2681-50, 1681-102. That fee is set by statute at \$13. Additional statutes imposed surcharges that previously brought the fee to a total of \$16. The Department is reducing the Border Crossing Card application processing fee for these Mexican citizen minors by \$1 to \$15 to reflect the expiration of the authority provided by the Act, which imposed a temporary \$1 surcharge on fees for MRV and BCC application processing.

Why is this BCC fee \$15 instead of \$13?

In addition to the statutory \$13 fee for BCCs for these Mexican citizen minors, Public Law 110-293, Title V, Sec. 501, 122 Stat. 2968, reproduced at 8 U.S.C. 1351 (note) requires the Secretary of State to collect a \$2 surcharge (the “HIV/AIDS/TB/Malaria surcharge”) on all MRVs and BCCs as part of the application processing fee; this surcharge must be deposited into the Treasury and goes to support programs to combat HIV/AIDS, tuberculosis, and malaria.

Since the authority provided by the Act to collect an additional \$1 surcharge on fees for MRV and BCC application processing expired on June 30, 2020, the Department has already administratively adjusted the reduced Border Crossing Card fee to reflect the expiration of this authority. This rulemaking adjusts the Schedule of Fees (22 CFR 22.1) accordingly.

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as a final rule, with an effective date less than 30 days from the date of publication, based on the “good cause” exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). The APA permits a final rule to become effective fewer than 30 days after the publication if the issuing agency finds good cause. 5 U.S.C. 553(d)(3).

The Department finds that good cause exists to forego notice and comment and establish an early effective date for this rulemaking because the authority provided by the Act to collect a temporary \$1 surcharge on fees for MRV and BCC application processing, expired on June 30, 2020, thereby eliminating any potential agency discretion with respect to this surcharge and rendering notice and comment unnecessary and impracticable.

Regulatory Flexibility Act

Since this rulemaking is exempt from notice and comment, the Regulatory Flexibility Act does not apply. However, the Department has nonetheless reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number

of small entities as defined in 5 U.S.C. 601(6). This rule decreases the Border Crossing Card application processing fee for certain Mexican citizen minors.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501-1504.

Congressional Review Act

This rule is not a major rule as defined by 5 U.S.C. 804(2).

Executive Orders 12866 and 13563

The Department has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Orders. This rule is necessary in light of expiration of the authority provided by the Emergency Afghan Allies Extension Act of 2014, which imposed a temporary \$1 surcharge on fees for MRV and BCC application processing. As a result, the reduced Border Crossing Card fee will be reduced by \$1 from \$16 to \$15.

Details of the fee changes are as follows:

Item No.	Fee	Unit Cost	Current Fee	Change in Fee	Percentage Increase	Estimated Number of Applications Affected \1\	Estimated Change in Annual Fees Collected \2\
SCHEDULE OF FEES FOR CONSULAR SERVICES							
* * * * *							
NONIMMIGRANT VISA SERVICES							

21. Nonimmigrant Visa Application and Border Crossing Card Processing Fees (per person):							
(f) Border crossing card – under age 15; for Mexican citizens if parent or guardian has or is applying for a border crossing card (valid 10 years or until the applicant reaches age 15; whichever is sooner)	\$15	\3\	\$16	\$1	-6.25%	200,846	(\$200,846)
* * * * *							

\1\ Based on FY 2019 workload.

\2\ Using FY 2019 workload to generate collections. This will be a reduction in total annual remittance to Treasury.

\3\ The fee for Border Crossing Card applications by minors is statutorily set at \$13.

Executive Order 13771

This regulation is not an E.O. 13771 regulatory action because it is not a significant rulemaking under E.O. 12866.

Executive Orders 12372 and 13132

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations, nor does it warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities do not apply to this regulation.

Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not create or revise any reporting or record-keeping requirements.

List of Subjects in 22 CFR Part 22

Consular services, Fees.

Accordingly, for the reasons stated in the preamble, 22 CFR part 22 is amended as follows:

PART 22--SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

1. The authority citation for part 22 continues to read as follows:

Authority: 8 U.S.C. 1101 note, 1153 note, 1157 note, 1183a note, 1184(c)(12), 1201(c), 1351, 1351 note, 1713, 1714, 1714 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 214 note, 1475e, 2504(h), 2651a, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632 (1957); E.O. 11295, 31 FR 10603 (1966).

2. In § 22.1, amend the table by revising entry 21(f) under the heading “Nonimmigrant Visa Services” to read as follows:

§ 22.1 Schedule of fees.

The following table sets forth the changes to the following category listed on the U.S. Department of State's Schedule of Fees for Consular Services:

Schedule of Fees for Consular Services

Item No.	Fee
* * * * *	
NONIMMIGRANT VISA SERVICES	

21.***	
(f) Border crossing card - under age 15; for Mexican citizens if parent or guardian has or is applying for a border crossing card (valid 10 years or until the applicant reaches age 15, whichever is sooner) *****	\$15

Ian Brownlee,

Acting Assistant Secretary of State for Consular Affairs

Department of State.

Billing Code: 4710-06

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